United Nations CED/C/13/3

International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report on requests for urgent action submitted under article 30 of the Convention*

A. Introduction

1. Pursuant to rules 57 and 58 of the Committee's rules of procedure (CED/C/1), any requests for urgent action that are submitted under article 30 of the Convention are to be brought to the attention of the Committee for its consideration. The full text of any such request may be made available in the language of submission to any member of the Committee upon request by that member. The present report summarizes the main issues relating to urgent action requests received by the Committee under article 30 of the Convention and the decisions taken in that regard since its twelfth session.

B. Requests for urgent action received since the twelfth session of the Committee

2. In its report on requests for urgent action adopted at its twelfth session, the Committee set out the decisions taken on the 359 requests for urgent action registered up to 18 January 2017. From that date until 12 July 2017, the Committee has received 29 new requests for urgent action, of which 27 have been registered. Those 27 requests relate to events that occurred in Argentina, Armenia, Colombia, Iraq, Mauritania, Mexico, Morocco and Sri Lanka. The present report is accompanied by a list of the urgent actions that have been registered.

3. Four requests were not registered for the following reasons: three related to disappearances that occurred in a State that is not a party to the Convention and one of the alleged victims was located a few hours after the request for urgent action had been sent by the authors and before that request could be registered (Morocco).

4. At the time of writing, the Committee had thus registered a total of 385 requests for urgent action. These requests were distributed by year and country as follows:

* Adopted by the Committee at its thirteenth session (4-15 September 2017).

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Table 1
Urgent action registered, by year and by country

Year	*Argentina*	*Armenia*	*Brazil*	*Cambodia*	*Colombia*	*Iraq*	*Mauritania*	*Mexico*	*Morocco*	*Sri Lanka*	*Total*
2012	-	-	-	-	-	-	-	5	-	-	5
2013	-	-	-	-	1	-	-	5[a]	-	-	6
2014	-	-	1	1	1	5	-	43	-	-	51
2015	-	-	-	-	3	43	-	165	-	-	211
2016	-	-	-	-	4	22	-	58	1	-	85
2017[b]	2	1	-	-	3	46	1	12	1	1	27
Total	**2**	**1**	**1**	**1**	**12**	**76**	**1**	**288**	**2**	**1**	**385**

[a] Urgent action No. 9/2013 refers to two persons and is therefore counted as two urgent actions.

[b] As of 8 September 2017.

C. The process after registration of urgent action requests: developments observed since the twelfth session (up to 12 July 2017)

1. Interaction with States parties

5. The Committee maintains contact with States parties through their permanent missions, primarily by means of notes verbales. With a view to ensuring that the Committee's recommendations in the context of urgent action requests produce a greater impact, the Committee continues to be convinced of the need for more direct contact with the authorities responsible for searching for disappeared persons on behalf of whom urgent actions have been registered and for investigating their disappearance. However, to date, it has not been possible to identify channels that might facilitate such contacts.

6. During the current period, there has been a reduction in the frequency of responses from States parties concerning which requests for urgent action have been registered. Thus, no response had been received, as of the date on which this report was adopted, from States parties regarding 11 of the 27 urgent actions registered in 2017. Reminders were sent to the States parties in question.

7. The Committee takes note in this context of the request from Colombia for more time to respond to requests for urgent action and to follow-up letters. Until now, a response to an initial request had been required within two weeks, and three two-week extensions were granted before a final reminder stating that, if no reply was received, the Committee could decide to mention the State party's lack of cooperation in its report on the session and its report to the General Assembly. Given the difficulties that States parties may encounter in gathering the necessary information, and with a view to working in cooperation with States parties, the Committee has decided to accede to the request made by Colombia to set new time limits for responses (see section E below).

8. In terms of the content of States parties' replies, a number of trends highlighted in the report adopted at the Committee's eleventh session were again in evidence (see CED/C/11/3 and CED/C/12/3). The Committee notes that the replies received from States parties indicate that the search and investigation efforts launched in cases brought to their attention soon come to a standstill.

9. The following trends were observed in the case of Mexico:

(a) The practice of failing to initiate investigations within 72 hours of a disappearance continues, even in cases where protocols at the state or federal level underscore the importance of initiating searches "forthwith" when a disappearance is reported;

(b) In all the urgent action cases, the State party's observations and the authors' comments reflect sporadic, isolated actions which, for the most part, are more a matter of

form than of substance and do not seem to be part of, or to be directed by, a previously defined search and investigation strategy;

(c) The searches are almost invariably begun by sending official requests for information to hospitals and detention centres. Most of these letters remain unanswered. The Committee has expressed concern that, in such cases, the Public Prosecutor's Office does not appear to make full use of its authority to employ enforcement measures in order to obtain the requisite information;

(d) In the great majority of cases, no action is taken after the official letters are dispatched, and in situ investigations are almost never conducted. The authors frequently inform the Committee that the investigating authorities are directly or indirectly implicated in the case or are afraid to go to the locations where they might be able to collect evidence;

(e) According to the available information, investigations by the authorities are frequently not started unless relatives, close contacts or representatives of the disappeared persons take the initiative. If relatives, close contacts or representatives are unable to identify leads for the investigators or are unable to persuade the authorities to take action, the cases generally remain deadlocked;

(f) The trend towards the fragmentation of investigations among state institutions, and between state and federal institutions, continues, as does the lack of inter-agency coordination and of a joint strategy. Given these circumstances, great difficulties have reportedly been encountered in incorporating all the evidence into a single investigation. Fragmentation and lack of coordination are conducive to excessive delays in the investigations;

(g) The authors of urgent action requests continue to highlight the difficulties faced by relatives, close contacts and representatives of disappeared persons in obtaining access to the case files and other information and in participating in the search and investigation;

(h) Support for relatives of disappeared persons is very limited and fails to meet their needs. In 75 per cent of the registered actions related to events in Mexico, relatives have drawn attention to the major difficulties that they have encountered following a disappearance. It was reported in several cases that the "allowances" distributed by the Executive Commission for Victim Support (CEAV) do not meet basic needs, that the administrative procedures involved in obtaining access to health services and the necessary educational support take a great deal of time and that access to such services and support is often obtained too late to meet family needs. This situation is compounded by the factors that prevent relatives and close contacts from participating fully in the search for disappeared persons.

10. With regard to the urgent actions registered in connection with events in Iraq, the Committee recalls that, as noted in the report adopted at its twelfth session, it had sent a fourth reminder concerning 23 registered urgent actions. During the twelfth session, the Committee held a bilateral meeting with the Permanent Mission of Iraq to give the State party an opportunity to explain why it had not been in a position to respond to the Committee's letters. Once the Committee had clarified certain aspects of the urgent action procedure, the State party undertook to send information in the weeks following the session on the urgent actions in question, and it did so. Nevertheless, the Committee underscores its concerns on the following grounds:

11. In 25 of the registered urgent actions, the State party sent a letter requesting the Committee to provide additional information on the following points:

- Full name (all four names) and title
- Date and place of birth
- Mother's name
- Place and date of disappearance
- Profession, activity/occupation and place of work

- Family address
- Address of the missing person
- Academic training/education
- Criminal record, if any
- Relationship with the author of the request for urgent action
- Whether the disappearance has been reported to the police
- Whether the disappearance has been reported to the courts
- Full name of the author of the request for urgent action
- Date of the request and signature of the author of the request
- Fingerprints of the author of the request
- Documents to be delivered: identity card, certificate of Iraqi nationality, residence permit, ration card (a card that must be presented to obtain access to food and medicines), passport and a copy of the complaint submitted to the national authorities.

12. The Committee sent a letter to the State party with respect to these cases in which it stated that it appreciated the State party's intention to obtain additional information "to enable the competent authorities to investigate the circumstances surrounding the alleged disappearance". However, the Committee reminded the State party that the requested information regarding the identity of the disappeared person and the address, date, place and circumstances of the disappearance had already been provided in the urgent action registration note. The Committee also reminded the State party that, on all previous occasions when the State party had requested additional information on the identity of a disappeared person, such information had been provided. The Committee expressed concern that the provision of the requested information had not given rise to the receipt of any subsequent information on the State party's efforts to search for and locate the missing person and to investigate the alleged enforced disappearance.

13. With regard to the State party's request that the Committee provide information on the authors of the request for urgent action, the Committee recalled that, for security reasons, the confidentiality of the identity of the authors of all requests submitted under article 30 of the Convention is maintained throughout the proceedings. Lastly, the Committee emphasized that urgent action requests arise under emergency circumstances and that a speedy response by the State party authorities is necessary in order to locate the missing persons. In this context, and in accordance with article 30 of the Convention, the State party cannot expect the Committee to adopt a special procedure to facilitate the launching of an investigation. Rather, the State party is required, under the Convention, to take the necessary steps in good faith to search for and locate missing persons and to investigate their disappearance by drawing on the basic information that has been provided on the identity of the missing persons and on the date, place and circumstances of their disappearance. In closing, the Committee expressed concern that the fate and whereabouts of missing persons had not been clarified and reiterated its previous recommendations regarding the request for urgent action in question.

14. Regarding another series of urgent action requests, Iraq asked the Committee to invite the relatives of the disappeared persons to visit the Human Rights Department at the Office of the Inspector General in the Ministry of the Interior to "file a formal request for the search and to give a statement as a means of furthering the ongoing investigations". According to information received by the Committee, the relatives of the missing persons in question appeared before the authorities mentioned by the State party with a copy of the State's letter but were not received by the relevant authorities and were instead referred to other institutions, such as the forensic department, to look for "their relative, who was probably dead". The Committee is concerned about these reactions on the part of the State party, which delay the search and seem to be based on an unsubstantiated hypothesis as to the alleged death of missing persons which may impede an effective search for living persons.

15. In respect of three of the urgent action requests, the State party said that the request could not be addressed because the missing person's relatives had not reported the disappearance to the proper national authorities. In its letter, the Committee reminded the State party that, in accordance with article 30 (2) (c) of the Convention, the author of a request for urgent action should already have duly presented it to the competent bodies of the State party concerned, "where such a possibility exists". The Committee also reminded the State party that, in accordance with the Committee's jurisprudence, if the available information indicates that the relatives would place themselves at risk if they reported the disappearance to the competent domestic authorities, then there is no real possibility of doing so. The request for urgent action triggers the responsibility of the State party to "undertake an investigation, even if there has been no formal complaint", pursuant to article 12 (2) of the Convention.

16. With regard to requests for urgent action directed to other States parties, the Committee considers that the number of registered requests is too small to enable it to arrive at any conclusions concerning the existence of repeated trends. However, the following information may be highlighted regarding registered urgent action requests:

(a) Argentina: In the two cases in which urgent action requests were registered, the State party responded by denying allegations of enforced disappearance despite a number of statements and pieces of evidence pointing to the direct involvement of police officers or members of the Gendarmeria. The authors have reiterated their allegations. The Committee will send follow-up notes as soon as possible concerning these two urgent action requests;

(b) Armenia: The State party sent its reply and provided information on the investigations that are under way. This information was shared with the authors of the request for their comments;

(c) Brazil: The information that has been provided has been very general. The State party highlights the complications encountered in conducting the investigation. The urgent action procedure has proceeded at a very slow pace because of the difficulties involved in obtaining comments from the authors;

(d) Cambodia: The State party has maintained its position that the person concerning whom the alleged forced disappearance was registered has not disappeared, notwithstanding various statements and pieces of evidence that suggest the possibility of such a disappearance. The authorities have also concluded that it is unnecessary to proceed with the investigation in question. The Committee awaits the authors' observations in order to take action;

(e) Colombia: The State party is maintaining an ongoing dialogue with the Committee and has responded to requests for urgent action and follow-up notes. In many cases, the information it has provided suggests that the investigations and search procedures have made little progress. The authors report that the Committee's letters are frequently followed by concrete action, although such action does not always form part of a clear-cut search and investigation strategy. In one case, the author of the request has expressed concern regarding the failure of the investigating authorities to take action. In fact, the State party's responses are very general and indicate that investigative action that could be deemed fundamental, in light of the available information, has not been taken;

(f) Morocco: Regarding the two requests for urgent action that have been registered, the State party considers that the relevant facts do not correspond to enforced disappearances. The first request was discontinued when the missing person was located in May 2016 (CED/C/12). In the case of the second request for urgent action, the State party informed the Committee of the place of detention of the alleged victim. The information was shared with the authors, but their comments have not yet been received. The Committee will have to decide on what follow-up measures it should take once the authors' comments are received;

(g) Sri Lanka: The State party has not replied to the registered request for urgent action. Reminders have been sent.

2. Interaction with authors

17. The secretariat is in frequent contact with the authors of urgent action requests, mainly by means of letters sent on behalf of the Committee, but also more directly, by email and telephone. On the basis of the Committee's contact with authors, the following trends have been observed.

18. The authors continue to highlight the importance of the Committee's support as an intermediary, following several unsuccessful attempts to secure the assistance of the national authorities. In some cases, the authors announced that, following the Committee's intervention, they had obtained the outcome that they had sought in connection with the implementation by the national authorities of the Committee's recommendations concerning the establishment of bodies tasked with coordinating search and investigation procedures.

19. In other cases, however, the authors indicate that, following the notes sent by the Committee, the State authorities take piecemeal action that is devoid of continuity. While they refer, for instance, to the receipt of material support, such as the distribution of foodstuffs or help in ensuring that a family member has access to medical treatment, they also indicate that such support is very speedily suspended once the State has submitted its report to the Committee in which it refers to the assistance provided.

20. In many cases, very soon after the registration of requests for urgent action, the authors express frustration regarding the lack of progress in the State's fulfilment of its search and investigative duties. They note with concern the failure of the authorities to undertake basic investigative steps to search for and locate missing persons, even when reliable information was available that could be used to move forward with the search and investigation.

21. In the older cases, the authors state that national authorities are taking less and less action to search for and locate the disappeared person(s) and that they confine their interventions to formal action or to the repetition of previous investigations. In other cases, the authors highlight the failure of national authorities to take action in order, for example, to ensure that all witnesses are duly interviewed as soon as possible to facilitate the search for the missing person and the investigation of his or her disappearance.

22. In the case of a few of the urgent action requests, the authors have not sent their comments on the State party's observations. This limits the Committee's ability to move forward with these urgent action procedures. However, in accordance with article 30 (4) of the Convention, these urgent action cases remain open.

23. In accordance with the decision taken by the plenary at the Committee's twelfth session, the Committee has applied the following rule:

(a) Three reminders are sent to the author;

(b) If authors fail to reply within **three months** of receipt of the third reminder, the secretariat tries to locate them by other means and enquires about the reasons for their failure to respond to the Committee;

(c) If authors indicate that they are not in a position to respond in writing but have information that they wish to share with the Committee, the secretariat seeks to obtain such information orally (for example by telephone) and sends a follow-up note to the State party based on the information obtained;

(d) If, **six months** after the third reminder, the author cannot be located or has no information to provide, the Committee sends a note to the State party based on the available information in which it sets a new deadline for the State party to send updated information on the case.

24. The Committee is also concerned by allegations that authors of requests for urgent action have been subjected to threats, pressure and reprisals, particularly in connection with events that occurred in Mexico. In these urgent action cases, the authors asked the Committee to intervene and to request interim protective measures, which were granted. In cases in which the authors of the requests allege that state authorities were involved in the

disappearance, the Committee has requested that the protective measures be implemented by the federal authorities. In all cases, it also underscores the importance of ensuring that the interim protective measures are implemented in coordination with the beneficiaries and their representatives in order to secure their full trust in the persons responsible for their protection and to ensure that those measures fully meet their needs in the context of the search for the missing persons and the investigation of their disappearance. With this end in view, the Committee requests the State party to convene regular coordination meetings between the authorities tasked with implementing the interim measures, the beneficiaries and their representatives.

D. Urgent actions discontinued, closed, or kept open for the protection of persons for whom interim measures have been granted

25. In accordance with the criteria adopted in plenary by the Committee at its eighth session:

(a) An urgent action is discontinued when the disappeared person has been located but is still detained, since that person is at particularly high risk of being disappeared and placed outside the protection of the law once again;

(b) An urgent action is closed when the missing person has been found at liberty or located and released, or has been found dead, provided that the relatives and/or authors do not contest these facts;

(c) An urgent action is kept open when the disappeared person has been located but the persons for whom interim measures have been granted are still under threat. In such cases, the intervention of the Committee is limited to following up on the interim measures.

26. As of the date of this report, the Committee has closed a total of 28 urgent action cases: in 9 of these cases, the disappeared person was located and released alive; in the other 19 cases, it was determined that the disappeared persons were dead.

27. In addition, the Committee has discontinued two urgent action requests because the disappeared person was located but remains in detention.

28. In two urgent action cases, it has been determined that the disappeared person is dead, but the urgent action remains open because the persons who were granted interim measures are still under threat.

E. Plenary decisions

29. In response to the request from Colombia that the Committee extend the time limits for responding to requests for urgent action and follow-up notes, the Committee decided to set the following new time limits:

(a) For the response to the initial request: three weeks, with three reminders, each setting a time limit of three weeks, prior to the final reminder;

(b) For follow-up notes: one month, with three reminders, each setting a time limit of three weeks, prior to the final reminder.

30. In view of the trends observed during the periods covered by this report and the Committee's previous reports on urgent action requests and in the light of procedural developments, the Committee has decided to prepare a compilation of its rules for consideration and adoption by the plenary. The draft compilation may be submitted at the next session in the context of the submission of the report on urgent actions.

31. The Committee has decided to take concrete action, with the support of the secretariat, to disseminate more specific information on the urgent action procedure, primarily to civil society organizations and State party officials. The Committee has thus decided to prepare clearly worded information materials for distribution.

32. With the same end in view, the Committee wishes to work with national authorities to increase information exchanges and training opportunities dealing with the urgent action procedure and objectives, in coordination with the field offices of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the treaty body capacity-building programme, in order to raise awareness of the scope and objectives of urgent actions.

33. The Committee notes that the number of registered urgent action requests continues to rise and that, given this situation, a pressing need exists for an increase in the number of OHCHR secretariat staff members involved in processing urgent actions.